

Department of Permitting and Inspections

Zoning Division

645 Pine Street

Burlington, VT 05401

<http://www.burlingtonvt.gov/DPI/>

Telephone: (802) 865-7188

*William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Theodore Miles, Zoning Compliance Officer
Ryan Morrison, Associate Planner
Charlene Orton, Permitting & Inspections Admin
Layne Darfler, Planning Technician
Alison Davis, Zoning Clerk*



MEMORANDUM

To: Development Review Board

From: Mary O'Neil & Scott Gustin, Principal Planners

Date: October 20, 2020

RE: ZP19-0980CA/MA, 110 Riverside Avenue

Note: These are staff comments only. Decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.



File Number: ZP19-0980CA/MA

Zone: NAC-R **Ward:** 1

Date application accepted: June 12, 2019 (incomplete) June 28, 2019 (complete)

Date traffic study received: November 12, 2019

Applicant/ Owner: G4 Design Studio/Sisters and Brothers Investment Group / Joe Handy

Request: Reapplication to demolish existing c. 1935 former auto repair structure; construct new 4 story 57 unit apartment building with underground parking on 1.22 acre site. Height bonus exercised by providing Senior Housing. Originally approved with amended conditions, July 2, 2013. Two time extensions procured; permit expired without exercise.

NPA Review Date: May 8, 2019.

Background:

- **ZP18-1007AP** (ZP13-0680CA/MA); Administrative determination that Zoning Permit 13-0680CA/MA had expired. Appeal of administrative decision; Upheld up DRB June 2018; appealed to Vermont Superior Court Environmental Decision. Agreement reached December 27, 2018' Stipulation of Dismissal with Prejudice January 3, 2019.

- ZP13-0680CA/MA, 2nd DRB Time Extension July 25, 2016.
- Application filed for Act 250 June 30, 2015. Per **Section 3.2.9 (f), Exception to Permit Time Limits**: *Except for projects subject to additional state or federal permitting jurisdiction, or which have been appealed to Vermont Environmental Court pursuant to the requirements of Article 12, there shall be no exceptions to the time limits specified in Section 3.2.9 (d) and (e) unless longer or shorter time limits are specifically imposed as permit conditions of approval by the DRB at the time of approval.*

For projects subject to additional state or federal permitting jurisdiction, the date of decision shall be deemed to be the latest date of decision of the state or federal permitting authority.

The application for Act 250 review tolled the approval date. Act 250 approval date July 21, 2016.

- **ZP13-0650CA.MA**; One Year Time Extension approved by DRB June 3, 2014.
- **ZP13-0650CA.MA**; Demolish existing c. 1935 former auto repair structure; construct new 4 story 57 unit apartment building with underground parking on 1.22 acre site. Height bonus exercised by providing Senior Housing. Approved April 23, 2013; hearing re-opened; approved with amended conditions, July 2, 2013.
- **ZP 13-0129; Sketch Plan** review of project. Reviewed by DRB September 18, 2012.
- **Zoning Permit 05-065SN**; 4' x 6' parallel sign for M & H Auto. Approved August 2004.
- **Zoning Permit 04-314**; Increase number of display cars from 25 to 45 and decrease 10 spaces for repair business to 6 spaces. Approved January 2004.
- **Zoning Permit 01-318 / COA 097-029**; Installation of a new nonilluminatd parallel sign over the entry of the existing used car sales establishment within the existing commercial complex. No change in use. Approved February 2001.
- **Zoning Permit 99-362**; Change of use from vacant commercial to auto and light truck repairs. No exterior changes proposed to the structure. Site currently contains a used auto dealer. Approved March 1999.
- **Zoning Permit 99-419 / COA 097-029B**; Installation of a nonilluminated freestanding sign for the existing auto and light truck repair facility. Approved April 1999.
- **Zoning Permit 99-570 / COA 097-029C**; Installation of two signs for the existing auto repair facility. Approved June 1999.
- **Zoning Permit 98-311 / COA 097-029**; replacement of existing sign faces at existing auto sales building. Approved January 1998.
- **Zoning Permit 98-310 / COA 097-029B**; Change of use from retail (see COA 97-029) to used car sales. Maximum outdoor storage of 25 cars. Approved January 1998.
- **Zoning Permit 97-460 / COA 097-029A**; Partial demolition of the existing structure and parking area to facilitate improvements included in COA 97-029. Approved May 1997.

- **Zoning Permit 97-274 / 097-029**; Renovation to the existing commercial complex, addition to create multiple retail storefronts. 1987 net new square feet. Approved January 1997.
- **Zoning Permit 88-031**; one internally illuminated aluminum sign. Approved August 1988.
- **Zoning Permit COA 87-199**; Convert building to auto body shop; minor exterior work. Approved January 1988.
- **Zoning Permit 87-746 / COA 87-199A**; install one sign. Approved April 1988.
- **Zoning Permit 85-491**; construct a chain fence 4' to run along the west boundary of the property. Approved October 1985.
- **Zoning Permit 84-446 / COA 84-118**; Remove front wall of plate glass and replace with 2 x 6 frame, insulate and finish exterior with vinyl siding. Install thermopane picture window. Approved September 1984.
- **Zoning Permit 84-328 / COA 84-088**; construct 30 x 30' one story building to be used as a repair shop to replace a building of the same size and use that was destroyed by fire 4 months previous. Approved July 1984.
- **Zoning Permit 82-546**; parallel sign for "First Quality Carpets." Approved December 1982.
- **Zoning Permit 82-525**; To establish a floor covering and home decoration store. Prior use was a furniture store. Approved December 1982.
- **Zoning Permit 82-344 / COA 82-75**; Change pitch of roof. July 1982.
- **Zoning Permit 82-337 / COA 82-73**; establish use as a building supply and material retail outlet – dealing in hot tubs and plumbing fixtures for residential installation. 1000 sq ft devoted to retail use. Approved July 1982.
- **Zoning Permit 81-292**; Change of use from automobile retail business into a furniture retail business. No structural alterations. Approved December 1980.
- **Zoning Permit 78-162**; Used car sales, service and repair. Build partitions and 3 phase electric power in order to create car painting stalls in existing large garage. No additional coverage. Paint shop presently exists in the small garage at 110 Riverside. Issued October 1978.
- **Zoning Permit 75-891?** ; Erect a pylon sign flat against the building. May 1975.

- **Zoning Permit**, erect a 30' x 60' addition on the north side of the existing garage and remodel the front of the showroom.
Issued August 1971.

Overview:

The application for a 57 unit residential building was originally approved in 2013, with 32 permit conditions. Despite several time extensions, the permit expired. The applicant has re-applied to raze all buildings on this corner site and develop a multi-story 57 unit residential building with 60 parking spaces, 48 of those provided under the building and 12 more on a small surface lot.

(Revised parking, Plan A1-1. 8/1/19). 25% of the units (14) are intended to be low to moderate income Senior Housing to qualify for the additional height bonus.



The Development Review Board considered this application at their November 19, 2019 meeting. The Board closed the public hearing, but upon deliberating the Board acted to re-open the public hearing to receive additional information relative to shoring work at the back of the property and as to stormwater. Additional information was provided, and the project plans were revised slightly as well to relocate a dumpster enclosure out of the residential/NMU zone district setback.

The Development Review Board subsequently considered this application at the February 19, 2020 meeting. The Board again closed the public hearing and deliberated. Upon deliberation, the Board found the additional information to be insufficient and moved to re-open the public hearing to receive additional information as to:

- Current stormwater review based on current conditions;
- City Arborist comments as to trees affected by the project; and,
- City engineer review of the proposed shoring system.

This application has been pending since its July 16, 2019 review with the DRB. Per Sec. 3.2.5, *Completeness of Submission, Administrator's Action*, action may be deferred for up to 6 months. Up to two 3-month extensions may be granted by the Development Review Board. In re-opening the hearing in February 2020, the Board granted an initial extension of the timeline for review. The Coronavirus pandemic led to a declared state of emergency that suspended permit timelines for 90-days.

A second, and final, 3-month extension was granted by the Development Review Board on July 21, 2020. Between the timelines established in Sec. 3.2.5 and the 90-day suspension of timelines related to the state of emergency, this application has been pending for 15 months and expires this month. No further extensions are possible.

The applicant has requested an additional deferral. As noted above, no further extensions are possible. The Development Review Board must act on the application following this October 20 meeting. Of the items identified by the Development Review Board on February 19, 2020 to

address, only stormwater management remains outstanding. It remains unsatisfactorily addressed in the current project plans.

Changes to these findings since the most recent DRB review are **noted in red**.

Recommended motion: Certificate of appropriateness denial as per, and subject to, the following findings.

I. Findings

Article 2: Administrative Mechanisms

Section 2.7.8 Withhold Permit

Per this standard, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. There are a significant number of open permits, all of which must be closed out with issuance of Certificates of Occupancy. See attached list. **Affirmative finding as conditioned.**

Article 3: Applications, Permits, and Project Reviews

Section 3.2.1 (d) Pre-application Neighborhood Meeting

The applicant has provided evidence of an NPA meeting May 8, 2019. **Affirmative finding.**

Sec. 3.2.5 Completeness of Submission, Administrator's Action

This section limits application reviews to 6 months with provision for up to two 3-month time extensions for DRB applications. The initial 6 months have run, and two 3-month time extensions have been granted. In addition, there was a 90-day suspension of permit timelines starting in March 2020 due to the COVID-19 state of emergency. In all, this application has been pending for 15 months.

The applicant requests additional deferral now. The applicant asserts that the application has never been deemed complete and that, in any event, the application continues to be modified and, therefore, restarts the review clock with each revision. Appellant's argument ignores the plain language of the ordinance. "An application for a zoning permit shall not be complete until all submission requirements have been provided to the satisfaction of the *administrative officer*." Sec. 3.2.5 (emphasis added). This was done, and the application was deemed complete June 28, 2019. Further, the plain language provides that the administrative officer then needs to take action with regard to a complete application within 30 days. This was also done as it was referred to the DRB. Nothing in the plain language of the ordinance indicates that requests for information from the DRB somehow undoes the administrator's action with respect to deemed complete and referral. An interpretation to the contrary would be inconsistent with past practice and lead to illogical results.

Applicant's reliance on the language regarding modifications in the second paragraph is misplaced. The second paragraph of Sec. 3.2.5 pertains to "deemed approved" provisions. That is if the application is not acted up within 30 days by the administrative officer as required by the first paragraph, than the application is deemed approved. The reopening of the clock refers to modifications made during the administrators review period that is during the 30 day clock. This

is completely logical as one does not want an applicant to be able to make a change on day 29 and then have that deemed approved 2 days later as the administrator could not look at it in time. Under the rules of statutory construction, one must look at the whole provision and the intent. Clearly, this sentence regarding modifications is in reference to applications under the 30 day review clock, it is not intended to applications that have been acted on by the administrative officer and referred to the DRB under paragraph 1.

As for modifications to this application, the project application has remained consistent as a 57-unit senior housing complex with related parking and site improvements since its submission. There have been revisions to address comments from the Development Review Board and some on the applicant’s initiative. The applicant’s assertion that any change to the application materials somehow restarts the application review timeline construes this section to absurd results. **(Adverse finding)**

Part 3: Section 3.3.2 Impact Fees: Applicability

Any new development or additions to existing buildings which result in new dwelling units or in new nonresidential buildings square footage are subject to impact fees as is any change of use which results in an added impact according to Sec. 3.3.4.

Impact fees are assessed for the gross new floor area, with a credit for the existing square footage currently associated with the automobile service use.

As submitted, the estimated Impact Fee calculation:

Estimated Impact Fees (recalculated 11.12.2019, under FY19 schedule):

SF of Project	88,772	Based on Drawing A1-1
	<u>Residential</u>	
Department	Rate	Fee
Traffic	0.196	17,399.31
Fire	0.222	19,707.38
Police	0.044	3,905.97
Parks	0.743	65,957.60
Library	0.460	40,835.12
Schools	0.961	85,309.89
Total	2.626	\$ 233,115.27

Credit for existing service use: 13,666 sq. ft.

	<u>Offices & Other</u>	
Department	Rate	Fee
Traffic	0.676	9,238.22
Fire	0.199	2,719.53
Police	0.351	4,796.77
Parks	0.418	5,712.39
Library	0.000	0.00
Schools	0.000	0.00

Total	1.644	\$ 22,466.91
--------------	-------	---------------------

Estimated Impact Fees Due, based on difference: \$210,648.36

Allocation by Department:

Enter Total Fee:	\$210,648.36	
	Residential	
Department	Rate	Fee
Traffic	0.196	15722.42
Fire	0.222	17808.05
Police	0.044	3529.52
Parks	0.743	59600.81
Library	0.460	36899.56
Schools	0.961	77087.99
Total	2.626	\$210,648.35

Article 3.3.3 Exemptions and Waivers

(a) Exemptions

If units are dedicated to Senior Housing (as proposed, for the height bonus), the following exemption will apply:

(b) School Impact Fee Exemption:

That portion of impact fees attributable to school impacts shall not be required for senior citizen housing projects or for that portion of a project where certain units are reserved specifically for the elderly. Any project, or portion thereof, which meets either state or federal guidelines for elderly housing, shall be deemed a senior citizen housing project and eligible for a full or partial waiver of school impact fees.

A waiver of Impact Fees is applicable to affordable housing units:

Sec. 3.3.3 (c) Affordable Housing Waivers

Any residential project containing newly constructed units or substantially rehabilitated housing units that are affordable for households as described in subsections (1), (2) or (3) below are eligible for a waiver of impact fees for that portion of the project. The terms, rules and regulations used herein shall be the same as those defined and specified in this Ordinance pertaining to Inclusionary Zoning (Article 9).

The applicability of any waiver of Impact Fees shall be determined by the Housing Trust Fund Manager in the Community and Economic Development Office. Any such waiver, if determined, will be provided to staff (with the associated square foot measurement) to facilitate an appropriate impact fee assessment. **Affirmative finding as conditioned.**

Sec. 3.3.7 Time and Place of Payment

Impact Fees must be paid to the city's chief administrative officer/city treasurer according to the following schedule:

- (a) *New Buildings: Impact fees must be paid at least seven (7) days prior to occupancy of a new building or any portion thereof. **Affirmative finding as conditioned.***

Part 4: Site Plan and Design Review

- (a) **Site Plan Review, and**
(b) **Design Review** will both be applicable for this project.

Section 3.4.3 Submission Requirements

In addition to the applicable application and submission requirements pursuant to Sec. 3.2.2, all applications for a zoning permit subject to Site Plan and/or Design Review under this Part shall provide any additional information necessary for the adequate review of the proposal under the applicable development principles and standards found in Article 6.

Given the historic use of the property for many decades as an automotive service center, it is appropriate to discern the environmental disposition of the parcel prior to development. The applicant submitted a Phase I study in previous review, which had, been reviewed by the Vermont Department of Environmental Conservation. In July of 2019, a communication from the Verterre Group (Environmental Scientists and Field Services) stated that the property is not currently listed as a State of Vermont DEC identified site. The DEC does have a copy of the Phase I report (prepared by this group) dated February 7, 2013. Verterre proposes being on-site during building demolition to investigate if abandoned tanks, buried lifts, drains, and oil/water separators are present. Any contamination will be brought to the attention of the State of Vermont DEC. Verterre will then conduct a Phase II investigation, with results forwarded to the City and the State of Vermont DEC. Staff recommends constructing a timetable for timely assessment, reporting, and creation of an appropriate plan (Corrective Action Plan, if warranted) before advancing development.

Affirmative finding as conditioned.

Part 5: Conditional Use and Major Impact Review

Sec. 3.5.2 Applicability

(b) Major Impact Review

In Neighborhood Mixed Use districts, Major Impact Review is required for the creation of twenty-five or more dwelling units. The development proposes 57 new residential units. Therefore, Major Impact Review is required.

Sec. 3.5.6 Review Criteria

(c) Major Impact Review Standards:

- 1. Not result in undue water, air or noise pollution;*

110 Riverside Avenue has been mis-identified as Site #94-1733 by the Vermont Department of Environmental Conservation. In an email of January 16, 2013, DEC acknowledges the error, but notes the following:

There are other significant potential environmental issues with 110 Riverside property too. It was a filling station at one time and had at least three gasoline underground storage tanks and a few garage bays for auto repairs (likely with floor drains and/or mechanics pits and associated dry wells or other subsurface drainage appurtenances.) From photographs taken

from a UVM archive site, it is apparent that the dispenser pumps are not all located just above the tanks – expanding the areas for potential onsite releases.

While the construction of new residential dwelling units does not immediately trigger alarm, the previous use as commercial / car repair coupled with the expressed concern of the Department of Environmental Conservation warrants attention. There exists the potential for soil contamination, which would have an impact on appropriate soil disturbance as well as storm and groundwater. A Phase I Environmental Site Assessment was submitted to staff March 11, 2013, and the Executive Summary indicates “recognized and historic environmental conditions.” A Phase II is warranted to fully understand the site conditions and to actively pursue a cleanup as recommended by the Conservation Board (and if deemed appropriate by the Department of Environmental Conservation.) The applicant has proposed that Verterre Environmental Scientists be present a building demolition to ascertain risk features (see Section 3.4.3, above), and to conduct a Phase II evaluation, with results forwarded to the City and State DEC. After conferring with staff at the Department of Public Works, staff again recommends construct of a timetable for building demolition, site assessment, soil testing and reporting prior to advancement of a construction timetable to assure a site conducive to redevelopment for residential use. **Affirmative finding as conditioned.**

2. Have sufficient water available for its needs;

A letter dated November 12, 2012 from Burlington’s Department of Public Works informs that Burlington’s water and wastewater treatment facilities have sufficient capacity to handle demand associated with the proposed apartment building. Submission materials reference communication with the Water engineering division, but a companion letter of capacity has not been provided. The application will need to provide renewed confirmation from the Water division to confirm the continued capacity.

Affirmative finding as conditioned.

3. Not unreasonably burden the city’s present or future water supply or distribution system;

See comment above.

4. Not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;

See Secs. 5.5.3 and 6.2.2 (b) as revised.

5. Not cause unreasonable congestion or unsafe conditions on highways, streets, waterways, railways, bikeways, pedestrian pathways or other means of transportation, existing or proposed;

Staff received a revised Traffic Study November 12, 2019, which had received preliminary review by the Department of Public Works. It includes the following:

AM Peak (7:30-8:30 am) - 21trips (5 entering, 16 exiting)

PM Peak (4:30 – 5:30 pm) - 25 trips (16 entering, 10 exiting)

The November 2019 staff report pointed out a discrepancy between these numbers and those in the 2012 traffic assessment. The applicants have responded that the ITE Trip Generation manual in effect in 2012 had a more generic “apartment” code. The current manual divides apartments into low, mid, or high-rise. The current standards are applied to the current traffic analysis.

The Trudell November 2019 traffic analysis asserts the 25 PM trips represents 1.5% of the total PM design hour traffic on Riverside Avenue.

Two driveways are proposed; the eastern driveway will allow both ingress and egress, while the west driveway movements will be limited to right-in only for direct access to the parking garage. A crosswalk featuring pedestrian activated flashing beacons is proposed in front of the proposed project to connect the sidewalk that is currently in front of the project with the multi-use path on the north side of Riverside Avenue. Although project generated traffic volume is low, traffic from the project will make use of the adjacent intersection system (Colchester Avenue / Barrett Street) for which an improvement plan is in place. The applicant has agreed to pay a fair share mitigation fee toward those improvements as part of their already approved Act 250 permit.

Affirmative finding.

6. *Not cause an unreasonable burden on the city's ability to provide educational services;*

Staff made initial inquiries and repeated notifications to the school district when the plan came for 2013 review, and forwarded information as the project progressed through decision. If the entire building is dedicated to senior housing, there will be no impact to educational services, reflected in the exemption from School impact fees. If the 57 units are intended to be divided by 14 senior units (25% of whole, to be eligible for the additional building height) and the remainder are fair market value, impact fees for the non-senior units should off-set any new demand on city educational services. **Affirmative finding as conditioned.**

7. *Not place an unreasonable burden on the city's ability to provide municipal services;* Letters of sufficient water supply and wastewater capacity were submitted in 2013 and again in 2019 from the Department of Public Works. A State Wastewater Permit will be required as well. Required impact fees will address other service demands. **Affirmative finding as conditioned.**

8. *Not have an undue adverse effect on rare, irreplaceable or significant natural areas, historic or archaeological sites, nor on the scenic or natural beauty of the area of any part of the city;*

This site is not identified as having irreplaceable historic or archaeological merit; however, the steep embankment at the rear is a concern with the large development proposed. See Sec. 6.2.2 (b) as to topographic alterations and bank stabilization. **Affirmative finding.**

Not have an undue adverse effect on the city's present or future growth patterns nor on the city's fiscal ability to accommodate such growth, nor on the city's investment in public services and facilities;

This is a developed lot. A letter of supply was provided from the Department of Public Works to address water capacity in 2013; an updated letter confirming the same is a condition of any approval. Water pressure issues must be resolved during site development by the applicant. The applicant will be required to work with engineering staff from the Department of Public Works to address and remedy any deficiencies relative to public water pressure/supply infrastructure. **Affirmative finding as conditioned.**

9. *Be in substantial conformance with the city's municipal development plan and all incorporated plans;*

planBTV: Comprehensive Plan (2019 Update) includes the following policies that are in sync with this development proposal:

- *Creating new opportunities for mixed-use infill and redevelopment in the most densely developed areas consistent with the City's scale and urban form, while conserving and strengthening adjacent residential neighborhoods. (P. 37)*
- *Expand housing opportunity, fill gaps in the housing tenure ladder, ensure perpetual affordability, and increase the overall supply and inclusiveness of housing. (P. 61)*
- *Neighborhood Center: The purpose of these areas is to provide nodes of neighborhood-supporting commercial activity and services. These are areas that allow for commercial, residential, and community-oriented uses, sometimes in mixed-use buildings, at a higher density than nearby residential areas. These areas feature a variety of building and architectural types and are typically within walking or biking distance of nearby homes.(p. 95)*
- *Evaluate capacity of neighborhood mixed-use areas to support additional development. (Appendices, cross-reference to 2014 Plan Chapters, p. 110.)*
- *Remove barriers and disincentives to housing production, and encourage infill and redevelopment of underutilized sites. (Appendices, Cross- Reference to 2014 Plan Chapters.) p. 114.*
- *Cleanup and redevelop brownfield sites, particularly in the South End. (Appendices, Cross-Reference to 2014 Plan Chapters.) p. 110.*
- *This plan (planBTV) anticipates a more urban configuration of higher-density mixed residential and commercial uses on the south side of Riverside Avenue...Studies are currently underway to identify short and long term improvements that can be made to these important gateways to Burlington. Implementing these enhancements will improve pedestrian and bicyclist safety, efficiency of and access to public transit, enhance these important city gateways, improve the quality of life in nearby residential areas, facilitate connectivity between Burlington and nearby Winooski and better link recreation resources to the city's transportation system. (p.105.)*

Affirmative finding for increased density. **Affirmative finding** for access to bicycle and pedestrian routes with condition of approval that requires installation of a pedestrian-activated crosswalk light.

- *Re: Brownfields: "The Burlington Brownfields Pilot Initiative is a US Environmental Protection Agency program that facilitates redevelopment of properties with real or perceived contamination issues through the assessment of environmental risk, remediation planning, and relief from liability. The City has made the cleanup and redevelopment of Brownfields a high priority to improve the environment, increase the tax base, create and retain jobs, and curb sprawl."*

Staff note: Final disposition of the site will be determined after a Phase II analysis. Staff recommends a stepped approval based on advancement through site analysis, reporting, remediation (if warranted), soil stability analysis, more detailed engineered plans and securement of appropriate instruments or approval for encroachments prior to redevelopment of the site.

Affirmative finding as conditioned.

10. Not have an undue adverse impact on the present or projected housing needs of the city in terms of amount, type, affordability, and location;

The proposal will provide 57 new housing units, 14 of which will be set aside for low to moderate senior residents of the City. The one and two bedroom units will be most welcome due to their size, location, and easy access to public transportation. **Affirmative finding.**
and/or

11. Not have an undue adverse impact on the present or projected park and recreation needs of the city.

Impact Fees will substantially offset any impacts to park and recreation needs. **Affirmative finding.**

(c) Conditions of Approval:

In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:

1. Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.

Mitigation measures for this project consist largely of screening for parking and mechanical units. More substantial mitigation measures such as may be associated with commercial or industrial uses are not warranted for this residential project. **Affirmative finding.**

2. Time limits for construction.

The applicant has requested a 5-year zoning permit timeline. A 5-year construction window is likely unnecessary for this project. This criterion enables a longer timeframe for construction completion but not for the 1 year to commence construction. The applicant may request up to two 1-year extensions for commencement of construction should the need arise. **Adverse finding.**

3. Hours of operation and/or construction to reduce the impacts on surrounding properties.

This residential application does not require articulation of hours and days of operation. **Not applicable.**

4. That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions; and,

Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time.

5. Such additional reasonable performance standards, conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.

See the recommended conditions.

Article 4: Zoning Maps and Districts

Sec. 4.4.2 Neighborhood Mixed Use Districts

(a) Purpose: *The NAC-Riverside is intended to allow commercial development in areas already predominantly built along this corridor while encouraging emerging mixed-use development. The zone’s development standards promote attractive development, an open and pleasant street appearance, and compatibility with adjacent residential areas. Development is intended to be aesthetically pleasing for motorists, transit users, pedestrians, and the businesses themselves. Parking is intended to be placed behind or to the side of principle buildings.*

The proposal, to construct a large multi-unit residential building, conforms to the intent to allow new development in areas already developed along a major traffic corridor. Although no service or commercial use is proposed, residential uses are permitted within the NAC-R. These new residential units will profit from close proximity to the travel corridor and public transit. Parking is proposed both beneath, and next to the primary structure. **Affirmative finding.**

(b) Dimensional Standards and Density

Table 4.4.2-1, Dimensional Standards and Density

NAC-R	Max Intensity(floor area ration)	Max lot coverage	Minimum Building Setbacks			Height
			0 Front*	0 Side**	0 Rear**	
NAC-(Riverside)	2.0 FAR See bonus provision, below.	80%	0 Front*	0 Side**	0 Rear**	Min 22’ two stories Max 35’
110 Riverside Avenue proposal	1.49 per plan dated 11.21.12	51.7%	Approx. 40’ from Riverside Avenue	50’ east 10’ west	150’	45’ at elevator shaft, 39.5’ to roof.
Table 4.4.2-2 Sec. 4.4.2 (d) C., Maximum Bonus)	3.0 FAR					Max height 45’

*All structures shall be setback 12 feet from the curb on a public street.

** Structures shall be set back a minimum of 15 feet along any property line that abuts a residential zoning district. [In practice, this has only applied to primary structures and not parking areas. See zoning district map, below. Yellow is residential; purple is NAC-R. Per footnote 2, a 15 foot setback is required on any boundary line abutting a residential zone.]



Affirmative finding, using bonus provision.

(c) Permitted and Conditional Uses

Attached dwellings – Multi-Family (3 or more) is a permitted use in the NAC-R.

(d) District Specific Regulations

3. Development Bonuses/Additional Allowances

B. Senior Housing

A maximum of an additional 10 feet of building height, and corresponding FAR, may be permitted at the discretion of the DRB in the NAC and NAC-Riverside districts where no less than twenty-five per cent (25%) of the total number of onsite units are reserved for low-moderate income senior households as defined by state or federal guidelines, including no less than ten percent (10%) reserved for low-income households. The total gross floor area dedicated to the senior housing shall be equivalent to the gross floor area resulting from the additional allowance.

The applicant has agreed to dedicate 25% of the proposed (57) residential units to low-moderate seniors, with 10% of those reserved for low-income senior households, to achieve an additional 10' in height and corresponding FAR. The proposal exercises the height bonus within this application. Plan A1-1 details the gross floor area of the fourth floor (bonus allowance) as 13,066

sq. ft. The required Senior Housing is 25% of the units, or 14 dedicated residential units to exercise the height bonus. This provision states: *The total gross floor area dedicated to the senior housing shall be equivalent to the gross floor area resulting from the additional allowance.* Therefore, the area dedicated to Senior Housing (14 dedicated senior residential units, 25% of 57.) shall be equivalent to the area of the fourth floor. The senior housing does not need to be located on the fourth floor; but the gross floor area provided by the height bonus shall be equal to or less than the gross floor area of the dedicated senior units.

The applicant shall provide an annotated floor plan to identify the senior housing units to assure the equivalent gross floor area (13,066 sq. ft.) with the gross floor area achieved through the height bonus. Although the entire fourth floor is identified as Senior Housing, an additional four units for a total of 14 are required to secure the height bonus. **Affirmative finding as conditioned.**

Article 5: Citywide General Regulations

Sec. 5.1.1 Uses

(c) Permitted Uses

Per Appendix A, Attached Multi-Family, 3 or more units, is a permitted use in the NAC –R zoning district. **Affirmative finding.**

Part 2: Dimensional Requirements

See Section 4.4.2 (b), above. **Affirmative finding.**

Sec. 5.1.2 (d) Accessory Residential Structures

The plan includes an area for trash, with a plan for a trash enclosure. **Affirmative finding.**

Sec. 5.2.3, Lot Coverage Requirements

See Section 4.4.2 (b), above. **Affirmative finding.**

Sec. 5.2.4, Buildable Area Calculation

For any properties two or more acres in size within any RCO, WRM, RM, WRL, or RL zoning district...

110 Riverside Avenue is not over two acres in size nor part of RCO, WRM, RM, WRL, or RL zoning district; but within the NAC-R zoning district. **Not applicable.**

Sec. 5.2.5, Setbacks

See Sec. 4.4.2 (b) above. Note that the easterly property boundary abuts a Residential district. A 15' district setback applies. The site plan has been revised to relocate the proposed dumpster enclosure outside of this setback. Parking is allowable with a 5' minimum setback. **Affirmative finding.**

Sec. 5.2.6, Building Height Limits

See Sec. 4.4.2 (b) and Sec. 4.4.2 (d). 4. (C), above. **Affirmative finding.**

Sec. 5.2.7, Density and Intensity of Development Calculations

(a) District-specific provisions of Article 4 are based on FAR, not units-per-acre.

(b) Floor Area Ratio

In accordance with the district-specific provisions of Article 4 where the intensity of development is measured on a floor area ratio basis, the calculation of development intensity shall be measured by dividing the gross floor area of all structures on a site, or portion of the site where split by a zoning district boundary, by the gross site area.

For a site of 53,143 square feet (provided on the Engineer's Plan, C2-01), the maximum FAR allowance would be 159,429 sq. ft. (Bonus max 3.0 FAR.) The application proposes 88,772 (69,499 total gross floor area of the building, 19,273 surface parking = 88,772); or 1.67 FAR.

Affirmative finding.

Sec. 5.4.8 Historic Buildings and Sites

(a) Applicability

Although the core building is estimated to have been constructed in 1935, significant modifications and alteration (especially loss by fire) have rendered the extant building without historic merit. The building is not listed on any historic register, nor identified as eligible for historic designation. **Not applicable.**



Sec. 5.4.9 Brownfield Remediation

The City of Burlington encourages the remediation and redevelopment of brownfield sites through the waiver or modification of the requirements of this ordinance in situations where development otherwise authorized by the underlying zoning is constrained due to the presence of surface and subsurface contamination. Specifically, these regulations seek to achieve the following goals:

- *To promote the public health and safety by remediating contaminated sites that pose a threat to human and environmental health; and*
- *To encourage an efficient pattern of development in Burlington by supporting the redevelopment of previously developed sites.*

(c) Application Submission Requirements:

In addition to the submission requirements pursuant to Article 3, the following information as applicable specifying any and all use and development limitations of the site shall also be provided at the time of application:

1. *A VT DEC Approved Corrective Action Plan (CAP) pursuant to 10 VSA 6615a (h);*
2. *A Record of Decision (ROD) issued by the US EPS;*
3. *A VT DEC Approved Corrective Action Plan (CAP) pursuant to VHWMR 7-105(b); and*
4. *Any warranty deed specifying any and all use and development limitations of the site.*

None of the above specified required submission materials have been submitted.

This parcel is identified with a “star” on the Vermont Department of Environmental Conservation Hazardous Sites map. After lengthy communication with DEC, it was ultimately determined that the site had been misidentified as an existing hazardous site. An official of DEC did remark, however, that given the known use of the parcel as an automobile repair shop since the 1930s, there is a probability of site involvement for contaminants. An overlay of a Sanborn Fire Insurance Map with Google Maps indicates the historic presence of at least 3 underground storage tanks (USTs) on the site. There is no documentation for their present condition, or removal. A Phase I ESA was submitted to staff March 11, 2013, who requested a copy be forwarded to the Department of Environmental Conservation. A Phase II study has been recommended, and offered by the Verterre Environmental Group.

Given the historic use of the site and the proposed redevelopment, Burlington’s Department of Public Works recommends further site evaluation to determine the disposition of the soils relative to contaminants. (See email from Caleb Manna, 11.13.2019.)

If a Phase II study deems a brownfield, the State of Vermont has the authority to require this work be completed under Title 10 VSA 6615b.

If a Corrective Action Plan (CAP) or Site Management

Activity Completed (SMAC) is required, these must be developed and implemented prior to redevelopment of the site. All documentation relative to site evaluation and treatment plan, if warranted, needs to be under the direction and with the approval of the Vermont Division for Environmental Conservation and the City’s Department of Public Works. **Affirmative finding as conditioned.**



Sec. 5.5.1, Nuisance Regulations

Nothing in the proposal appears to result in creating a nuisance as defined under this criterion. **Affirmative finding.**

Sec. 5.5.2 Outdoor Lighting

Sec. 5.5.2 (e) General Outdoor Lighting Standards

5. *All outdoor lighting fixtures, other than those using only low output lamps and alternative specifically allowed under these regulation, shall be “Full Cut-Off” or “Cut-Off” as defined by the Illuminating Engineering Society of North America to*

ensure that glare is minimized, that lighting is directed only to the area to be illumination, that illumination is directed below a horizontal plane, and that illumination does not cast direct light beyond the boundaries of the property on which they are located. Light levels on adjacent properties shall not exceed one tenth (0.1) footcandle as a direct result of the on-site lighting measured 20 feet beyond the property line of the development site.

The submitted photometric plan includes several lighting measurements on the northerly boundary exceeding the .1 threshold 20' outside the property boundary. Revision of the lighting plan, as noted shall be a condition of approval. **Affirmative finding as conditioned.**

5.5.2 (f) Specific Outdoor Lighting Standards

1. Parking Lot Lighting

A. *The Maximum mounting height for any fixture shall be 25 ft.*

Affirmative finding.

A. *The maximum illumination level shall not exceed 4 footcandles at any point.*

The lighting plan does not indicate any illumination levels that exceed 4 fc in the parking lot area. **Affirmative finding.**

B. *The maximum illumination level shall only be computed for the functional area of the parking lot.*

The parking lot area is defined by color on the photometric plan. No separate calculation is offered for the parking lot area; however, the light levels do not exceed the maximum as defined by this section. **Affirmative finding.**

C. *The maximum to minimum uniformity ration shall not exceed 20:1.* **Affirmative finding.**

D. *Illumination levels are encouraged to be reduced by at least 50% within one hour after the end of public business hours.*

This is a residential development; although there are no public business hours, encouragement is offered in the spirit of this standard. **Affirmative finding.**

1. Walkway Lighting:

A. *The average illumination level on a walkway or pathway surface shall not exceed 0.5 footcandles. Maximum lighting levels shall not exceed 2 footcandles.*

Affirmative finding.

Staff notes that a pole mounted light fixture is proposed within the ROW. It is not on the "existing conditions" plan C1-03, but may be visible in photographs of the site. Any lighting installation within the public ROW shall be in cooperation, approval and partnership with Burlington Electric Department. **Affirmative finding as conditioned.**

5. Parking Garage Lighting

A. *Light Levels shall not exceed minimums recommended in IESNA document RP-20-98 or current edition.*

B. *Any fixture visible from the exterior of the garage facility shall be a full cutoff or cut-off fixture or shall be constructed in a manner that prevents glare to be visible from the exterior of the parking garage.*

Revised lighting fixture information for the parking garage was submitted June 15, 2017 and resubmitted for this application. **Affirmative finding.**

Sec. 5.5.3 Stormwater and Erosion Control

The applicant provided updated erosion control and stormwater management plans. Such plans were reviewed by the city stormwater program staff. Location of some stormwater management features within the Riverside Avenue street right-of-way proved problematic and lacked the support of Public Works. No further stormwater revisions have been provided. **No finding possible.**

Sec. 5.5.4 Tree Removal

The limits of the tree clearing are identified on Plan 5-01. This is particularly important, given the steep slope and potential for erosion at the rear of the site. An email from Trudell Engineering notes that they have contacted Knight Consulting to work with this project relative to steep slopes, as they did the original geo exploration in 2012 and made recommendations for slope stabilization and sheeting. The City Arborist has reviewed the tree removal plan and proposed planting plans and is satisfied that his recommendations have been incorporated. **Affirmative finding.**

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Not applicable.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

As noted previously, the site contains no significant natural features as depicted in the Natural Resource Protection Overlay district. Tree clearing limits are noted on the project plans. **Affirmative finding.**

(b) Topographical Alterations:

As required, geotechnical details have been provided as to the proposed retaining walls behind the building. Significant cut into the bank is proposed. Sheet piling will hold back the bank to allow space for the building and related parking. Site plan details, elevations, cross sections, and anchoring details have been provided. All have been provided by a Vermont licensed engineer. The City Engineer has reviewed the shoring plans and has identified only one remaining issue as to property rights to install and maintain the retaining wall system with neighboring properties. A draft easement with the adjoining property for anchoring and maintaining the proposed retaining wall has been submitted for review. The applicant requests that execution of the easement be a condition of approval. **Affirmative finding as conditioned.**

(c) Protection of Important Public Views:

Not applicable.

(d) Protection of Important Cultural Resources:

Although the existing building is greater than 50 years old, it is not historically sensitive or to retain any characteristics that would merit attentive examination. **Not applicable.**

(e) Supporting the Use of Renewable Energy Resources:

The proposed building will back into a site cratered on the south by a large elevation change that will likely hinder opportunity to maximize solar gain. Proposed broad expanses of window glass are likely the limited exercise in capturing solar gain. The Design Advisory Board has previously recommended the installation of conduit to permit the future use of rooftop solar. **Affirmative finding.**

(f) Brownfield Sites:

*Where a proposed development involves a known **or suspected brownfield**, the site plan shall indicate areas of known or **suspected** contamination, and the applicant shall identify completed or planned remediation necessary to support the intended use(s).*

110 Riverside Avenue was originally misidentified as Hazardous Site #941733 by the Vermont Department of Environmental Conservation. Since that time, DEC has acknowledged the error, but expressed concern that given the historic use of the site as an automotive service center, there is the potential for site contamination. Sanborn Maps confirm the historic presence of underground storage tanks (USTs; see Sanborn Map overlay above.) An assessment is recommended to explore evidence of any contamination from the longstanding use. A Phase I study was submitted to staff on March 11, 2013; however, no research has been identified that would shed light on the disposition of the USTs.

The applicant has submitted an email from Russell W. Barton, indicating the intent to monitor soil excavation activities and collect soil samples, and more recently from the Verterre Group to conduct a Phase II study. Given the lengthy use as an automotive garage, the common use of pit drains for that use, and the likelihood of extant USTs, further site examination is appropriate. If warranted, a Corrective Action Plan / Site Management Action Complete (SMAC) should be in place prior to soil disturbance, site excavation and redevelopment. The applicant shall work either directly or through consultants with the State of Vermont Department of Environmental Conservation to appropriately and adequately address site conditions and document appropriate remediation, if necessary. Conversely, a site evaluation may identify the site as clean and of no concern to further development, which would free the applicant from further investigation. The DRB requires that approval or certification from DEC on the suitability of the site as remediated for residential use. **Affirmative finding as conditioned.**

(g) Provide for nature's events:

The application includes stormwater management and erosion prevention measures. See Sec. 5.5.3.

Design features which address the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage from circulation areas are required. Balconies would provide some measure of weather protection, as will drive-in parking. The pedestrian entrances on the north elevation and the access door to the south (playground) should be revised

to include a canopy or other protection from inclement weather. **Affirmative finding as conditioned.**

(h) Building Location and Orientation:

The proposed residential building is “L” shaped, with the backbone facing Riverside Avenue and the base projecting into the southerly hillside. There is an unusually large Right-of Way expanse of land between the project site and the street, so meeting the required 12’ setback from the public curb does not pose a problem. The developer will be required to work with the Department of Public Works for any work proposed within the ROW, and securement of any encroachment permits as may be necessary. **Affirmative finding as conditioned.**

(i) Vehicular Access:

Two curb cuts are proposed: One for direct access to the underground parking area; the other to the small surface parking lot on the east. A modified version of the traffic pattern was accepted in 2013: right turn only into the garage at the western curb cut as described in the hearing on March 19, 2013. Although VTrans guidance limits access drives to one per parcel, DPW engineering staff are willing to entertain a second ingress for purposes of mitigating congestion on Riverside Avenue.

See Section 3.5.6 c) 5, above. **Affirmative finding as conditioned.**

(j) Pedestrian Access:

Sidewalks are provided to two entrances on the north, and from the building to the playground area on the south. The public sidewalk terminates at the property line on the east; it is not clear how pedestrians can maneuver off-site (no crosswalk within 1900,’ no traffic light, no continuous sidewalk toward Winooski.) The DRB approved either of two options: An extension of the sidewalk on the south side of Riverside Avenue to Colchester Avenue, or alternately, a pedestrian activated crosswalk that would spur a red light for oncoming traffic. For the 2013 review, a pedestrian activated crosswalk was accepted and is therefore submitted for this review. **Affirmative finding.**

(k) Accessibility for the Handicapped:

An internal elevator is proposed to allow access to all levels of the development. Handicapped parking spaces have been identified (A1-1 shows parking spaces 9 and 10 to be H/C; plan C2-01 shows a surface parking space H/C with a loading area as required by ADA. ADA access compliance is under the jurisdictional review of the building inspector, and subject to his or her approval. **Affirmative finding as conditioned.**

(l) Parking and Circulation:

For the 57 unit residential building, one space per unit is required. The application proposes 48 spaces within the underground lot, and a 12 space surface parking area on the east of the lot. As this does not meet the 15 space threshold, the standard to provide parking lot shading does not apply. The applicant is certainly encouraged to provide shade in an attempt to reduce the effect of the parking area on the local microclimate, air quality, and stormwater runoff.

The plan proposes 7 compact parking spaces within the underground lot (per Plan A1-1), which is compliant with the 15% limitation under Article 8. A maximum of 7 compact spaces may be provided (15% of 48 structured spaces.)

A proposed pedestrian walkway is proposed that provides a physical separation between moving and parked vehicles and pedestrians in a manner that minimizes conflicts and gives pedestrians a safe and unobstructed route to the building entrance and the public sidewalk.

Bicycle parking is provided within the parking garage. Three locations have been identified on Plan A1-1. None provide secure storage (lockers or similar, as recommended by the Design Advisory Board.) From a use standpoint, the isolated location of bike storage facilities is not commensurate with the anticipated need and likely use of the facilities.

Short-term bike storage/parking is identified on the exterior of the building, immediately adjacent to the building entrance and the pedestrian walkway (Plan C-2.01.)

All bicycle parking shall be in conformance with applicable design & construction details as provided by the dept. of public works. **Affirmative finding.**

(m) Landscaping and Fences:

A list of proposed plantings and a landscaping plan has been submitted. The C2-01 site plan notes removal of a tree fronting Riverside Avenue and removal of wood planters and stone wall.

A rain garden is proposed for the northeastern part of the ROW, within the public right-of-way (Plan L1-01). The Conservation Board noted that the identification, maintenance and retention of the rain garden should be included within the Homeowners Association (HOA) recording (or similar ownership documentation) to prevent the filling-in and removal of the rain garden in the future. The proposed rain garden will drain to the city overflow, into the city system.

Per Sec. 5.2.5 (b) 2, retaining walls are permitted within setbacks.

Retaining walls greater than 5 feet tall shall incorporate textured surfaces, terracing, and/or vegetation to avoid long monotonous unarticulated expanses and to minimize adverse visual impacts to neighboring properties. The retaining wall system consists of steel sheet piling. This criterion calls for avoidance of long monotonous expanses of retaining wall. Steel sheet piling is commonly used for retaining walls; however, by itself it does not address the intent of this criterion. The applicant has updated the landscaping plan to include vegetative screening of the sheet piling as previously recommended.

As requested, the City Arborist has reviewed the proposal and has noted that the updated landscaping plans meet his recommendations as to preservation of existing trees and planting of new trees along the rear slope.

New or replacement street trees shall be provided consistent with the city's Street Tree Master Plan. Consultation with the city arborist will be required as to final details for new street trees.

New fencing will run the length of the proposed retaining walls as a safety measure. Fencing will be black vinyl coated chain link of 4' height. **Affirmative finding as conditioned.**

(n) Public Plazas and Open Space:

While this is proposed to be a private residential development, the plan includes a play and recreational in the rear (south) for the residents. This is a private area, which will be secure from the street area in visibility and access. **Affirmative finding.**

(o)Outdoor Lighting:

Where exterior lighting is proposed the applicant shall meet the lighting performance standards as per Sec 5.5.2.

See Section 5.5.2.

(p) Integrate infrastructure into the design:

Exterior storage areas, machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory structures shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties to the extent practicable.

Utility meters/connections shall be illustrated on site plans and building elevations. Plan C2-01 notes removal of existing gas meter; the new location is on the north/east corner of the building. Plan L1-01 shows landscaping as screening.

Utilities must be undergrounded for all new development.

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. The dumpster has been moved out of the required 15' district setback from the abutting residential property.

A plan for the dumpster enclosure, enclosed on all four (4) sides to prevent blowing trash, and screened from public view is on plan A0. **Affirmative finding as conditioned.**

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize, insofar as practicable, any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 4 Performance Standards.

If the applicant proposes any HVAC or rooftop equipment, the submission should be augmented with that information and anticipated noise level (dB) of each unit. **Affirmative finding as conditioned.**

Part 3: Architectural Design Standards
Sec. 6.3.2 Review Standards

(a)Relate development to its environment:

Proposed buildings and additions shall be appropriately scaled and proportioned for their function and with respect to their context. They shall integrate harmoniously into the topography, and to the use, scale, and architectural details of existing buildings in the vicinity.

The following shall be considered:

1. Massing, Height and Scale:

While architectural styles or materials may vary within a streetscape, proposed development shall maintain an overall scale similar to that of surrounding buildings, or provide a sensitive transition, where appropriate, to development of a dissimilar scale.

There are no four story buildings on Riverside Avenue; however the looming embankment that rises to the south and connects to Colchester Avenue/Nash Place alters the perspective of the proposed building.

Where the zoning encourages greater intensity and larger scale buildings in high density residential and non-residential zoning districts, buildings that are over 3-stories should provide a transition by employing design elements that reduce the apparent building mass from the street level. Taller buildings and elements are most appropriate where they provide a focal point of a terminal view, anchor a street corner, frame view corridors, or relate to larger scaled structures

The proposed residential building is presented as “layers”; with horizontal elements (materials, colors) that break up the vertical mass. The window alignment accentuates the horizontality of the plan as well. Additionally, the basement/parking level is situated partly below grade and the fourth floor is set back (see plan A6) so the full four stories are not readily apparent.

Buildings should maintain consistent massing and perceived building height at the street level, regardless of the overall bulk or height of the building. Buildings should maintain a relationship to the human scale through the use of architectural elements, variations of proportions and materials, and surface articulations. Large expanses of undifferentiated building wall along the public street or sidewalk shall be avoided. The apparent mass and scale of buildings shall be broken into smaller parts by articulating separate volumes reflecting existing patterns in the streetscape, and should be proportioned to appear more vertical than horizontal in order to avoid monotonous repetition. (See also (d) Provide an active and inviting street edge below.)

The proposed building has an undulated wall surface that alternates between projecting/receding, articulated with balconies and varying window groupings. The heavy cornice line “caps” the building, providing a strong terminus to the building’s height.

The proposed development site is at a major turn on Riverside Avenue; therefore a visual terminus of a different sort. The building will be clearly visible to travelers from either the north, west, or northeast. In that manner, the building will be monumental as a visual and structural anchor on the Riverside Avenue corridor. **Affirmative finding.**

2. Roofs and Rooflines.

As noted above, the building has a strong cornice line along the proposed flat roof that minimizes the actual structural height. Existing conditions on Riverside Avenue are a mixture of development styles and patterns. A flat-roofed building would not be out-of-place at this location.

Roof-top mechanicals shall be screened from view from the public street, and should be incorporated into and hidden within the roof structure whenever possible.

None have been identified; however if any are proposed, it is unlikely that they will be visible from the pedestrian way due to the building’s siting and height.

Solar panels, light colored ballast or roof membranes, split roof clerestories, planted or “green” roof technologies (with a clearly articulated maintenance plan) and “gray water” collection are

encouraged. Active rooftop uses are also encouraged to add to the visual complexity and activity of the city's skyline, and afford public access to otherwise unseen views of the city and surrounding landscape.

A working rooftop is encouraged, specifically for stormwater retention/mitigation or for solar collection. The Design Advisory Board has recommended installation of conduit to allow the future inclusion of solar technology. The applicant is encouraged to explore all options.

Affirmative finding.

3. Building Openings

Principal entrances shall be clearly defined and readily identifiable from a public street whether by a door, a canopy, porch, or other prominent architectural or landscape features. People with physical challenges should be able to use the same entrance as everyone-else and shall be provided an "accessible route" to the building. Attention shall also be accorded to design features which provide protection from the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage.

There are several pedestrian access points: Two on the north (street) elevation, one on the west, one through the east (parking entrance), and one on the rear for access to the play space. There is a feel of polite entry on the north elevation, if the proposed landscaping is installed and the access walkway is permitted to be constructed within the public ROW. The previously elevated north entryway has been lowered to meet adjacent grade and has little impact on the appearance of the building. Some related grading work is included with this revision.

Window openings shall maintain consistent patterns and proportions appropriate to the use. The window pattern should add variety and interest to the architecture, and be proportioned to appear more vertical than horizontal. Where awnings over windows or doors are used, the lowest edge of the awning shall be at least eight (8) feet above any pedestrian way, and shall not encroach into the public right-of-way without an encroachment permit issued by the dept. of public works.

The proposed window arrangement displays a rhythm and cadence that break up the building mass yet provide needed daylight to the residences. No awnings are illustrated on the plan, or any building mass that encroaches into the public right-of-way. Much of the site development on the north, however, is within the ROW. Agreement needs to be secured with the department of public works about the feasibility of completing this work (pedestrian walkways, plantings, curbing, utility locations).

Buildings placed on a side or rear property line where no setback is required shall contain neither doors nor windows along such façade so as not to restrict future development or re-development options of the adjacent property due to fire safety code restrictions. Otherwise they should be setback a minimum of 5-feet.

While no setbacks may be required within the NAC-R district, a 15' setback is required for any development that abuts a residential zoning district. This is the case on all but one property line of 110 Riverside Avenue. A dumpster will need to be relocated out of that setback.

The building along the westerly portion of the site, is set back at least 5' from the property line. This elevation proposes to have both windows and a door, which is acceptable per this standard.

Affirmative finding as conditioned.

(b) Protection of Important Architectural Resources:

The existing buildings on the site have no documented architectural significance or merit; therefore this standard does not apply. Not applicable.

(c) Protection of Important Public Views:

There are no protected public views from this site. Not applicable.

(d) Provide an active and inviting street edge:

Building facades shall be varied along the street edge by the integration of architectural features, building materials, or physical step-backs of the façade along its length. Large expanses of undifferentiated building wall shall be avoided. This may be accomplished by incorporating fenestration patterns, bays, horizontal and vertical façade articulations, the rhythm of openings and prominent architectural features such as porches, patios, bays, articulated bases, stepping back an elevation relative to surrounding structures, and other street level details. The use of traditional facade components such as parapet caps, cornices, storefronts, awnings, canopies, transoms, kick plates, and recessed entries are highly encouraged. In areas where high volumes of pedestrian traffic are desired, the use of architectural recesses and articulations at the street-level are particularly important in order to facilitate the flow of pedestrian traffic.

As previously noted, the proposed building exercises a variety of methods to provide interest: varying materials, planes, recesses, balconies, material colors, window arrangements, and a heavy cornice line.

Buildings in downtown districts that provide open space by way of building setbacks at the ground level shall utilize landscaping, street furniture, public art, sitting walls, fountains, etc. to maintain a sense of the existing street wall, define a sense of entry for the building and create a space that enhances the pedestrian's experience.

Although this is within the NAC-R corridor rather than the downtown, the broad setback due to an extraordinarily large public ROW offers the possibility of providing similar amenities: benches, plantings, public art, or sitting walls.

Urban "open" space shall maximize accessibility for all individuals including the disabled, and encourage social interaction.

Plans detail handicap curb ramps within the public ROW. Confirmation that all pedestrian access walks and at least one building entrance is h/c accessible is required. **Affirmative finding as conditioned.**

(e) Quality of materials:

All development shall maximize the use of highly durable building materials that extend the life cycle of the building, and reduce maintenance, waste, and environmental impacts. Such materials are particularly important in certain highly trafficked locations such as along major streets, sidewalks, loading areas, and driveways. Efforts to incorporate the use of recycled content materials and building materials and products that are extracted and/or manufactured within the region are highly encouraged.

The principle building elevation (north) is illustrated with brick veneer, standing seam metal roofing, vertical metal siding, and vinyl siding within balcony areas. Vinyl has been proposed for much of the rest of the building, particularly those areas not readily visible from the street. Vinyl is not a notably durable material, and does not age well.

The DAB included an allowance for differing material on the rear elevation, recommending a more substantial clapboard material on visible elevations and within the balconies; but encouraged consistency throughout.

The DAB also favored metal railings, which are identified on plans A6.

Window specs define proposed double hung vinyl windows. Steel entry doors, with glazing are proposed. **Affirmative finding.**

(f) Reduce energy utilization:

New structures should incorporate the best available technologies and materials in order to maximize energy efficient design. All new construction shall meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.

New structures should take advantage of solar access where available, and shall undertake efforts to reduce the impacts of shadows cast on adjacent buildings where practicable, in order to provide opportunities for the use of active and passive solar utilization.

New construction will be required to meet the above noted Guidelines for Energy Efficient Construction. As previously noted, solar access is encouraged. The DAB has recommended installation of conduit to allow for its future exercise. **Affirmative finding as conditioned.**

(g) Make advertising features complementary to the site:

No signage is included within this application. Any signs will require a separate sign permit. **Affirmative finding as conditioned.**

(h) Integrate infrastructure into the building design:

See Section 6.2.2. (p) above.

(i) Make spaces secure and safe:

Spaces shall be designed to facilitate building evacuation, accessibility by fire, police or other emergency personnel and equipment, and, to the extent feasible, provide for adequate and secure visibility for persons using and observing such spaces. Building entrances/entry points shall be visible and adequately lit, and intercom systems for multi-family housing should be incorporated where possible, to maximize personal safety.

All requirements for building ingress and egress shall meet the approval of the building inspector and fire marshal.

An intercom system for resident safety is encouraged per this standard.

Affirmative finding as conditioned.

Article 7: Signs

No signage is proposed. Any signage will require a separate sign permit. **Affirmative finding as conditioned.**

Article 8: Parking

This is a Shared-Use Parking District. Per Table 8.1.8-1, 1 parking space is required per residential unit. With 57 units proposed, 57 parking spaces will be required. The application proposes 60 parking spaces. **Affirmative finding.**

Sec. 8.1.9 Maximum Parking Spaces

The total number of parking spaces provided in all parking districts shall not be more than 125% of the minimum number of spaces required for the Neighborhood Parking District for any given use as required in Table 8.1.8-1.

This is not the Neighborhood Parking District, but the Shared Use Parking District.

(a) Exemptions

1. **Structured parking:** *Spaces provided within the footprint of a structure containing one or more other uses, including rooftop, at-grade, or below grade spaces shall not be counted towards the maximum, provided the floor area dedicated to parking is less than 50% of the total gross floor area of the structure.*

The provided parking is less than 50% of the total gross floor area of the structure; therefore the project is exempt from the maximum parking spaces accounting. **Not applicable.**

Sec. 8.2.5 Bicycle Parking Requirements

Table 8.2.5-1

Long Term Bicycle Parking requirement = 1 for every 4 units

Short Term Bicycle Parking requirement = 1/10 units.

For **57 units**, requirement will be **14 long term** bicycle parking spaces, **6 short term** bicycle spaces. The location of these bicycle parking / storage areas has been identified on the parking lot (floor) plan, with 3 dedicated areas for secure bicycle parking. A short term bicycle parking location to meet the required 6 short term parking spaces is illustrated on Plan C2-01; adjacent to the entrance stairs and pedestrian path. **Affirmative finding.**

Article 9: Inclusionary and Replacement Housing

(See Section 9.1.6, below)

The applicant proposes exercising the opportunity for a height and FAR bonus for providing senior housing. To exercise the height and FAR bonus, 25%, or **14 units will have to be dedicated to low to moderate income senior housing.** The applicant is encouraged to have early discussion with the housing representative from the Community and Economic Development Office, to determine the level of affordability, and whether any bonus provisions or waivers from Impact Fees will apply. In any case, the project must provide 14 senior units (25% of 57 units) to achieve the height bonus (up to 45'), with 10% of the total reserved for low-income households. As previously noted under Sec. 4.4.2 (d) 3.B., the total gross floor area dedicated to the additional senior housing shall be equivalent to the gross floor area resulting from the additional allowance; or 13,066 sq. ft. Confirmation of that area equivalency is required. **Affirmative finding as conditioned.**

Sec. 9.1.6 Exemptions

Exempt from the requirements of this article are:

c) *Projects created using the Senior Housing Development Bonus pursuant to the provisions of Article 4.*

The redevelopment of 110 Riverside Avenue, proposed to exercise the Senior Housing (height) bonus, is therefore exempt from the requirements of Article 9. Income requirements for affected units, however, shall remain per Sec. 4.4.2 (d) 3. B., Senior Housing. **Affirmative finding as conditioned.**

II. Recommended conditions:

Conditions of approval are recommended only in the event that outstanding stormwater concerns per Sec. 5.5.2 are addressed and that no 5-year permit timeline is granted.

1. **Prior to release of the zoning permit**, revised plans shall be submitted subject to staff review and approval. The revised plans shall address the following:
 - a. Consistency among the plans as to the retaining wall information is needed (delete references to prior concrete block proposal). Property boundary monuments shall be placed and referenced on project plans.
 - b. Balcony and other railings will be metal.
 - c. A more durable exterior sheathing than vinyl is recommended. Also, the composite trim proposed has a tendency to fade in color over a period of time. Deep colors of Azek (or similar) are therefore not recommended.
 - d. An entry canopy is recommended for all exterior doors, including two on the north and one on the west.
2. **Prior to release of the zoning permit**, the easement with neighboring property for construction and maintenance of the retaining wall system shall be executed and recorded in the city's land records.
3. The applicant shall resolve any water pressure issues as necessary with the water division of Public Works to accommodate the development of new residential units.
4. This plan assumes the accuracy of the provided Estimated Construction Cost (previously submitted as Condition #2: \$4,560,000.) Any increase in the ECC will result in revised application fees as allowed under the Stipulated Agreement of January 3, 2019. Any additional application or development review fees incurred as a result of cost estimation adjustment shall be paid **prior to release of any zoning permit**.
5. There are a number of open permits on the property, which must be closed out with issuance of a Final Certificate of Occupancy. This must occur **before a Certificate of Occupancy may be issued for this zoning permit**.
6. Impact Fees must be paid to the city's chief administrative officer/city treasurer according to the following schedule:
 - (a) *New Buildings: Impact fees must be paid at least seven (7) days prior to occupancy of a new building or any portion thereof.*

Fees shall be as noted in Sec. 3.3.2 and 3.3.3, unless revised to reflect a change in the total gross square footage of the development or to reflect the appropriateness of Impact Fee waivers or reductions. Any request for waivers or reductions of Impact Fees shall be accompanied by a Certificate of Inclusionary Housing Compliance issued by the manager of

the city's Housing Trust Fund, confirming applicability for any such waiver or reduction, and providing the Square foot calculation benefiting from the waiver.

7. The project must provide **14 low to moderate income senior housing units, (25% of 57), with not less than 10% of those (6) reserved for low-income households** to secure the building height bonus identified in *Sec. 4.4.2 (d) 3. B; Senior Housing* (up to 45'.)
Although the development is exempt per Article 9 for Inclusionary Housing (See Article 9, Sec. 9.1.6), income eligibility for reserved senior units shall remain. Per the Housing Trust Fund officer:
Under the Senior Housing bonus, 10% of the units are affordable to and occupied by low-income households (80% Area Median Income), and another 15% are affordable to and occupied by moderate-income households (100% of AMI). Article 9 Inclusionary Housing requires at least 15% of the units be affordable to and occupied by households at 65% of AMI.
8. The height bonus is available where no less than 25% of the total number of onsite units are reserved for low-moderate income senior households, including no less than 10% reserved for low-income households. The total gross floor area dedicated to the senior housing must be equivalent to the gross floor area resulting from the additional allowance, or 13, 066 sq. ft. A floor plan has been submitted by Guild Design defining the required floor area dedicated to senior housing. 10 units are identified at the fourth floor; 4 more units specifically for senior housing are identified within the building.
9. The applicant will provide a Phase II study, a CAP or SMAC issued by the Department of Environmental Conservation. Any demolition, site disturbance, development or other work on the site shall be in concert with plans and actions approved by the Vermont Department of Environmental Conservation. The DRB requires approval or certification from the Vermont Department of Environmental Conservation (DEC) on the suitability of the site as remediated for residential use. Absent that, the applicant shall return to the DRB for further review. Any site remediation, which may include Site Management Activity Completion (SMAC) shall be defined by and coordinated by the Vermont Department of Environmental Conservation.
10. Verterre Environmental Scientists and Field Services (or similar contractor) will be on-site during building demolition to investigate the presence of abandoned tanks, buried lifts, drains, and oil/water separators and to discern appropriate remediation. Any contamination will be brought to the attention of the State of Vermont Department of Environmental Conservation (DEC).
11. The applicant submits a pedestrian crossing with the pedestrian activated flashing light signal. This must be acceptable to the Department of Public Works. There will be limited access at the westerly entrance into the garage with stops signs and gate to control improper use.
12. Illumination levels of the parking lot are encouraged to be reduced by at least 50% within one hour after the end of public business hours.
13. Light levels on adjacent properties shall not exceed one tenth (0.1) footcandle as a direct result of the on-site lighting measured 20 feet beyond the property line of the development site. This shall be confirmed with photometric readings that include those adjacent areas within the specified 20' of all property boundaries.

14. Any fixture visible from the exterior of the garage facility shall be a full cutoff or cut-off fixture or shall be installed in a manner that prevents glare to be visible from the exterior of the parking garage.
15. Internal bicycle storage shall be provided to accommodate at least **14 long term bicycle parking spaces**. It is highly recommended that these are locker-style or secure/lockable storage units to prevent theft. Per the ordinance, **6 short term bicycle parking spaces** are required as well (1/10 units.)
16. New or replacement street trees shall be provided consistent with the city's *Street Tree Master Plan*. All proposed street trees shall be selected and planted in accordance with specifications provided by the city arborist. That information shall be provided to the DRB.
17. Any outdoor signs will require a separate zoning permit.
18. A State Wastewater Permit (on confirmation of the continued validity of issued permit) will be required for water and sewer service. It is the obligation of the owner/applicant to seek this or to provide evidence that prior approval is still valid.
19. ADA compliance is under the jurisdiction of the building inspector.
20. The applicant/owner shall obtain written approval from the Department of Public Works in the development of any part of this project within the public right-of-way, including but not limited to lighting, rain gardens, sidewalk installation, utilities, landscaping, etc.
21. Standard Permit Conditions 1-15.